

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
Respondent-Appellee

v.

JASON J. SMITH,
Petitioner-Appellant

) D.C. Crim. No. 95-cr-00002-1E

) U.S.C.A. No. 05-2391

) MOTION FOR EXTENSION OF STAY
) PENDING THE FILING AND DISPOSITION
) OF A PETITION FOR A WRIT OF
) CERTIORARI TO THE UNITED STATES
) SUPREME COURT

Motion for extension of stay
in the United States District Court for
the Western District of Pennsylvania,
the Honorable Sean J. McLaughlin, Presiding

COMES NOW your movant, Jason J. Smith, Pro Se, in the above captioned matter, and hereby moves this Honorable Court to extend through the filing and disposition of movant's Petition for a Writ of Certiorari to the United States Supreme Court from the United States Court of Appeals for the Third Circuit, this Court's May 18, 2005 Stay of Its April 8, 2005 Order and Judgment granting the Government's Motion to Destroy Evidence, upon the accompanying Declaration in Support and good cause showing.

DECLARATION IN SUPPORT

I declare under the penalty of perjury that the following is true and correct to the best of my knowledge, information, and belief:

- 1) My name is Jason J. Smith, Reg. No. 10581-068, and I am currently in the custody of the Federal Bureau of Prisons, FPC Lewisburg, P.O. Box 2000, Lewisburg, Pennsylvania, 17837.
- 2) On April 8, 2005, this Honorable Court entered an Order and Judgment in the matter of United States v. Jason J. Smith, Cr.

DECLARATION CONTINUED....


- 2) No. 95-2ERIE, regarding the disposition of certain property/evidence in that case.
- 3) A timely Notice of Appeal was filed approximately May 6, 2005, and the Circuit granted a motion to proceed In Forma Pauperis June 1, 2005. (C.A. No. 05-2391).
- 4) On or about April 27, 2005, a motion to stay this Court's April 8, 2005 Order and Judgment pending the outcome of the Direct Appeal was filed, which the Court granted on May 18, 2005.
- 5) That Appeal was denied in a per curiam, non-precedential, opinion on July 29, 2005.
- 6) A motion to extend time for filing a Petition for Rehearing and Stay of the Mandate was filed on August 11, 2005, and granted.
- 7) A Petition for Rehearing with Suggestion for Rehearing En Banc was timely filed approximately August 25, 2005 (a courtesy copy of which was forwarded to this Court and scanned by the Clerk before being returned to me).
- 8) The Petition for Rehearing with Suggestion for Rehearing En Banc was denied September 13, 2005.
- 9) I received a copy of that denial the eve of September 27, 2005 legal mail, stamped and recorded, here at FPC Lewisburg, via the prison I was previously incarcerated at, F.C.I. Fort Dix/East, Fort Dix, N.J. 08640, where it was originally sent by the Clerk of the Circuit Court.
- 10) I am appealing the Third Circuit's denial of my claims in this matter to the United States Supreme Court.
- 11) A failure to extend this Court's Stay of its April 8, 2005 Order and Judgment through the final disposition of the Supreme Court proceedings would have a substantive effect in this case.

DECLARATION CONTINUED....

WHEREFORE, I request that the duration of this Court's May 18, Stay of Its April 8, 2005 Order and Judgment be extended through the filing and final disposition of the Petition for a Writ of Certiorari to the United States Supreme Court in this case.

Executed on September 29, 2005,
pursuant to 28 USC § 1746.

Respectfully Submitted,


Jason J. Smith, Pro Se
Reg. No. 10581-068
FPC Lewisburg
P.O. Box 2000
Lewisburg, PA. 17837

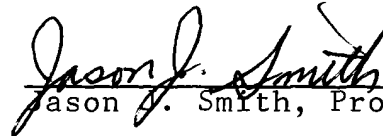
CERTIFICATE OF SERVICE

I, Jason J. Smith, certify under penalty of perjury pursuant to 28 USC § 1746, that on this day, the 29th day of September, 2005, a true and correct copy of the foregoing was placed for delivery in the legal mail box at FPC Lewisburg, via first class mail, postage prepaid, to:

Solicitor General of the United States
Room 5614
Department of Justice
950 Pennsylvania Ave., N.W.
Washington, DC 20530-0001

Michael L. Ivory, Esq.
Office of United States Attorney
700 Grant Street
Suite 400
Pittsburgh, PA. 15219

Dated: September 29, 2005.


Jason J. Smith, Pro Se

Mr. Jason J. Smith
Reg. No. 10581-068
FPC Lewisburg
P.O. Box 2000
Lewisburg, PA. 17837

September 29, 2005

Mr. Robert V. Barth, Jr.
Clerk of the Court
P.O. Box 1820
Erie, PA. 16507

Re: D.C. No. 95-cr-00002-1E/U.S.C.A. No. 05-2391

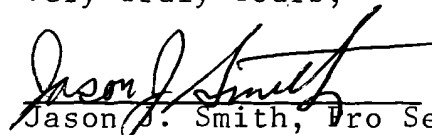
Dear Sir:

Please file, docket, and forward the enclosed Motion to Extend Stay...to the Honorable Sean J. McLaughlin for his consideration.

I have enclosed a copy and a SASE so that, at your convenience, a stamped copy can be returned to me verifying your receipt of the pleading (for my own records).

Thankyou for your time and assistance in this matter.

Very Truly Yours,


Jason J. Smith, Pro Se